

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL WRIGHT,

No. 2:24-cv-1953 DAD CKD P

Petitioner,

v.

J. TUGGLE,

FINDINGS AND RECOMMENDATIONS

Respondent.

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner paid the filing fee.

Under Rule 4 of the Rules Governing Section 2254 Cases, the court must review all petitions for writ of habeas corpus and summarily dismiss any petition if it is plain that the petitioner is not entitled to relief. The court has conducted that review.

Petitioner challenges the fact that he has been denied parole. The Supreme Court has found that California prisoners do have some Due Process Clause protection with respect to parole. Swarthout v. Cooke, 131 S. Ct. 859, 861–62, 178 L.Ed.2d 732 (2011). However, the procedural protections which must be afforded with respect the liberty interest implicated are minimal; the “Constitution does not require more” than “an opportunity to be heard” at a parole hearing and that the potential parolee be “provided a statement of the reasons why parole was denied.” Id. at 862.

1 Petitioner does not allege that he was denied an opportunity to be heard at a parole
2 proceeding, nor does he indicate that he was not informed as to why he was denied parole. This
3 being the case, petitioner's parole-related claims do not state any claim upon which relief can be
4 granted.

5 IT IS HEREBY RECOMMENDED that petitioner's petition for a writ of habeas corpus
6 be summarily dismissed.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, petitioner may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." In his objections petitioner
12 may address whether a certificate of appealability should issue in the event he files an appeal of
13 the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district
14 court must issue or deny a certificate of appealability when it enters a final order adverse to the
15 applicant). Where, as here, a habeas petition is dismissed on procedural grounds, a certificate of
16 appealability "should issue if the prisoner can show: (1) 'that jurists of reason would find it
17 debatable whether the district court was correct in its procedural ruling;' and (2) 'that jurists of
18 reason would find it debatable whether the petition states a valid claim of the denial of a
19 constitutional right.'" Morris v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v.
20 McDaniel, 529 U.S. 473, 484 (2000)). Petitioner is advised that failure to file objections within
21 the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
22 F.2d 1153 (9th Cir. 1991).

23 Dated: September 5, 2024


24 CAROLYN K. DELANEY
25 UNITED STATES MAGISTRATE JUDGE

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